

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

WILLIAM L. WILLIAMS,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No. 96-0072-B
	)	
MARTIN MAGNUSSON, et al.,	)	
	)	
Defendants	)	

***MEMORANDUM OF DECISION***<sup>1</sup>

Plaintiff's Complaint arises out of an incident during which Plaintiff was physically restrained by two of the named Defendants and other officers at the Maine Correctional Institution ["MCI"]. As a result of the restraint, Plaintiff suffered visible injuries to his head and forearms.

Plaintiff alleges violations of his right to be free from cruel and unusual punishment and his right to due process arising from the incident and subsequent disciplinary proceedings. Defendants move for summary judgment on all of Plaintiff's claims, and for dismissal of his claims against Defendants Magnusson and Riley for the reason that there is no supervisory liability under section 1983. Plaintiff objects only to that portion of the Motion that addresses his claim under the eighth amendment against Defendants Drake and Ford. The Court will nevertheless analyze the merits of the entire Motion.<sup>2</sup>

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 73(b), the parties have consented to allow the United States Magistrate Judge to conduct any and all proceedings in this matter.

<sup>2</sup> The Federal Rules of Civil Procedure require us to examine the merits of a motion for summary judgment regardless of the opposing party's failure to object. *FDIC v. Bandon Assoc.*, 780 F. Supp. 60, 62 (D. Me. 1991). Accordingly, we will examine the merits of Plaintiff's Motion for Summary Judgment based on Plaintiff's Statement of Material Facts.

## *Discussion*

### *1. Claims against Defendants Drake and Ford.*

The undisputed facts relative to Plaintiff's claims against Defendants Drake and Ford are as follows. On June 19, 1994, Plaintiff was playing basketball during his recreation period at MCI. Defendant Ford, a guard at MCI, was observing the basketball game from a window. He noticed Plaintiff shaking his hand as if it were hurt. Defendant Ford asked Plaintiff if he was alright. Plaintiff accused Defendant Ford of spying on him and told Defendant Ford it was none of his business.

Soon thereafter, Plaintiff went into the building for a drink of water. Defendant Ford again asked if Plaintiff needed medical attention. Plaintiff responded as he had the first time.

When Plaintiff went into the building again for another drink of water, Defendant Ford spoke to him about "having a better attitude." At some point during this discussion, Defendant Ford terminated Plaintiff's recreation period.

The disputed material facts address the heart of Plaintiff's claim that he was subject to cruel and unusual punishment by these Defendants. Defendants assert that Plaintiff became belligerent and resisted Defendant Ford's attempt to restrain him by hitting Defendant Ford in the face. Plaintiff denies assaulting Defendant Ford, and further denies Defendants' allegation that he was "wrestled to the floor," asserting instead that he "allowed himself to be taken to the floor."

Defendants argue the undisputed facts form a sufficient basis for judgment in their favor under Rule 56. The Court disagrees. The question in this case is whether the force was "applied in a good-faith effort to maintain or restore discipline." *Hudson v. McMillian*, 503 U.S. 1, 6 (1992). The Court is unwilling to reach that conclusion as a matter of law on this record. Plaintiff's version of the incident, if accepted by the factfinder, presents no basis upon which Defendants would have needed

to use force sufficient to cause visible injury. The Court finds that there are disputed factual issues precluding summary judgment.

**2. *Claims against Defendants Magnusson and Riley.***

Defendants Magnusson and Riley correctly assert that they may not be held liable solely on the basis of their status as supervisory personnel within MCI. There is no *respondeat superior* liability under section 1983. *Monell v. Department of Soc. Serv.*, 436 U.S. 658, 691 (1978). Defendants may only be held liable for their own acts or omissions. *Id.* Further, those acts or omission must be shown to have been deliberately indifferent to Plaintiff's constitutional rights. *City of Canton v. Harris*, 489 U.S. 378, 389-90 (1989).

In this case, Plaintiff has alleged no action or inaction on the part of Defendant Riley relative to the use of force or the disciplinary hearing. The only allegation regarding Defendant Magnusson is a statement that Plaintiff received a letter from "the warden" denying his appeal of the disciplinary board finding. He does not allege that this action was in any way "deliberately indifferent" to his constitutional rights. Plaintiff's claims against Defendants Magnusson and Riley should be dismissed.

**3. *Claims against Defendants Black and Hastings.***

The undisputed facts relative to Plaintiff's claims against Defendants Black and Hastings are as follows. Defendants Black and Hastings comprised the disciplinary board convened to address the charge that Plaintiff assaulted Defendant Ford. Plaintiff's appeal of the board's decision against him was granted by Defendant Riley. At the second hearing, Plaintiff plead guilty to the assault charge.

It is clear on these facts that Plaintiff was in no way deprived of his right to due process with respect to the disciplinary hearing. His appeal of the adverse decision was successful. Plaintiff's decision to plead guilty, which Plaintiff does not allege was involuntarily, obviated the need for further procedural protections. Plaintiff's assertion that he entered the plea on the basis of a misunderstanding

about the purpose of the second hearing and his feeling that a hearing would be futile is irrelevant to his claims against these Defendants. Summary judgment is therefore appropriately entered in favor of Defendants Black, and Hastings.

***Conclusion***

For the foregoing reasons, Defendants' Motion for Summary Judgment is hereby GRANTED IN PART AND DENIED IN PART. Specifically, the Motion is GRANTED as to all claims against Defendants Magnusson, Riley, Black and Hastings, and DENIED as to the Eighth Amendment claims against Defendants Ford and Drake.

***SO ORDERED.***

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Eugene W. Beaulieu  
U.S. Magistrate Judge

Dated at Bangor, Maine on April 7, 1997.